

**WAUKESHA COUNTY
MINUTES OF THE PARK AND PLANNING COMMISSION
THURSDAY, JUNE 17, 2004, 1:00 P.M.**

CALL TO ORDER

Betty Willert, Chairperson, called the meeting to order at 1:00 p.m.

Commission

Members Present: Betty Willert, Chairperson
 Mareth Kipp
 Pa Haukohl
 Walter Kolb
 Walter Baade

Commission

Members Absent: Vy Janusonis
 Ellen Gennrich

Staff

Members Present: Richard L. Mace, Planning and Zoning Manager
 Mary Finet, Senior Land Use Specialist
 Amy Barrows, Senior Land Use Specialist
 Sherrie Villarreal, Clerk Typist III

Guests Present:

Neal Wiebelhaus
Richard Kobriger
Michael J. Losik
Bill Johns
Kathleen Johns
Heidi Theder
Becky Faherty
John Steiner
Russ Evans
Daniel Schell

MINUTES

- *Mr. Kolb moved, seconded by Mrs. Kipp and carried unanimously, for approval of the May 6, 2004, Minutes.*

PUBLIC COMMENT

Chairperson Willert asked if anyone from the audience wished to address the Commission? There being no one, she moved to the next item on the agenda.

- **ZT-1533 (Text Amendment) Town of Mukwonago**

Mr. Mace presented the "Staff Report and Recommendation" dated June 17, 2004, and made a part of these Minutes. He said the Town is requesting a text amendment to create Section 2.02(69a) and recreate Section 14 of the Town of Mukwonago Zoning Ordinance.

Mrs. Haukohl expressed concerns regarding the 40 ft. setback for the conservancy/wetland area. Mr. Mace indicated that currently the setback is 75 ft., but would be modified to 50 ft. Mrs. Haukohl asked how the sliding scale for nonconforming lots worked? Mr. Mace described the process.

Mrs. Kipp remarked she couldn't imagine there were many nonconforming lots in the Town and on Phantom Lake. Mr. Mace replied that the majority of lots would be on Lower Phantom Lake.

After discussion, Mr. Kolb moved, seconded by Mrs. Kipp and carried unanimously, for approval in accordance with the "Staff Report and Recommendation".

- **SVZ-1539 (Griffith and Lois Howell/Thompson Corporation) City of Waukesha (From the A-2 Rural Home, R-1 Residential and C-1 Conservancy Districts to the R-3 Residential, E-C Environmental Corridor and C-1 Conservancy Districts)**

Mr. Mace presented the "Staff Report and Recommendation" dated June 17, 2004, and made a part of these Minutes. He said the proposed land use is for a forty-one (41) lot single-family residential subdivision, which will be served by sanitary sewer, water and storm sewer, and the lots will range in size from 15,000 sq. ft. to 26,861 sq. ft.

Mrs. Haukohl asked if there were restrictions or protection for the Environmental Corridor? Mr. Mace replied, "At this point no, but restrictions would be put on the lots during the Plat phase." She asked if there could be conditions as far as protecting the open space? Mr. Mace replied he didn't see any reason for protecting the open space because he thought there were protections already proposed on the Plat. Mr. Kobriger, Attorney for the developer (Thompson Corporation), said there would be a number of protections which are as follows: (1) The C-1 Conservancy zoning, itself, is a protection which will not permit any type of building; (2) the usual restrictions on the Plan which the County puts as a "condition of no objection to a Plat" would be listed on the Plat; and (3) the outlot is not part of the lot itself, which will need to be preserved as a sanctuary, which is a condition of the Purchase Agreement between Thompson Corporation and Mr. and Mrs. Howell (the petitioners). He noted the City of Waukesha Park and Recreation Department also showed interest in acquiring the property, and if the land is not acquired, it would be owned by a homeowner's association and maintained as a preserve. Attorney Kobriger stated when the property is sold, Mr. Howell will require a Deed Restriction stating the property is preserved, which will prohibit future development. Mrs. Haukohl asked if there would be protection for erosion control and if there was a review of the Stormwater Plan? Mr. Mace replied, because this land was annexed after 1992, it is under the County's Ordinance unless the City would have an Ordinance, which is more restrictive. Mrs. Haukohl asked if the matter would come back to the County for review? Mr. Mace stated Mr. Lindquist (Land Resources Manager) would conduct a review. Attorney Kobriger pointed out his client has already shared the grading and Stormwater Management Plans with Mr. Linquist. Mrs. Haukohl said there should be an additional condition to state the following: Subject to the subdivision being reviewed under the County's Stormwater Erosion Control Management Ordinance. Attorney Kobriger noted the City's Ordinance is not as restrictive as the County Shoreland Ordinance, and that being the case, the petitioner/owner is subject to review by the County's Stormwater Erosion Control Management Ordinance.

After discussion, Mr. Baade moved, seconded by Mr. Kolb for approval in accordance with the "Staff Report and Recommendation".

Mrs. Haukohl moved to amend the motion and add the following condition: "Subject to the subdivision being reviewed under the County's Stormwater Erosion Control Management Ordinance." There was no second, therefore, the original motion voted on was carried.

- **ZT-1540 (Text Amendment) Town of Mukwonago**

Mr. Mace presented the “Staff Report and Recommendation” dated June 17, 2004, and made a part of these Minutes. Items of discussion by the Town were the following: to rewrite the R-3 Zoning District to apply to the redevelopment and development or substandard lots of record within 500 ft. of Spring Lake and Upper and Lower Phantom Lakes; revised building locations; a 40 ft. setback for conservancy/wetland areas; a revised definition of “building height”; a sliding scale for “nonconforming lots” based on the size of the lots as it relates to the building footprint and the total amount of impervious surfaces allowed on each lot; a “vegetative buffer” requirement over 70 percent of all the areas between 15 ft. from the foundation and the ordinary high water mark; boathouses will not be allowed on lots less than 15,000 sq. ft. or a lake frontage of less than 100 ft., a “special exception” procedure will be implemented.

After a brief discussion, Mrs. Haukohl moved, seconded by Mr. Baade and carried unanimously, for approval in accordance with the “Staff Report and Recommendation”, which recommended in favor of the amendment.

- **CU-789B (St. Catherine’s Church) Town of Oconomowoc, Section 11**

Mr. Mace presented the “Staff Report and Recommendation” dated June 17, 2004, and made a part of these Minutes. He pointed out the location of the property on the aerial photograph and stated the petitioner is requesting to amend their Conditional Use Permit to permit the construction of a 24 ft. x 53 ft. addition on the east side of the existing 24 ft. x 64 ft. storage building.

Neal Wiebelhaus (salesman for Morton Buildings, representing St. Catherine’s Church) was present. Mr. Baade noted there is a sign on the property which states “Clean Fill Wanted” and questioned where the petitioner was filling and if they had permission from the County? Mr. Mace replied he would handle the “fill issue” separately. Mr. Wiebelhaus said the fill would be needed for the building and the area east of the existing cemetery. Mrs. Kipp expressed concerns as to why such an enormous storage building (24’ x 64’) was needed to store lawn equipment, seasonal decorations and church records. She wanted to know the total dimensions on both storage buildings. Mr. Wiebelhaus replied it was 117 ft. x 24 ft., which is 2,808 sq.ft. Mr. Wiebelhaus said approximately 30 ft. of the building would be used as a maintenance shop and the remainder for lawn and garden equipment, ladders, seasonal decorations, and records storage.

After discussion, Mr. Baade moved, seconded by Mrs. Haukohl and carried unanimously, for approval in accordance with the “Staff Report and Recommendation”. The approval of this request, as conditioned, will allow the petitioner a reasonable use of their land and still promote and meet the intent and purposes of all County Ordinances.

- **PO-04-OCOT-12 (St. Catherine’s Church) Town of Oconomowoc, Section 11**

Mr. Mace presented the “Staff Report and Recommendation” dated June 17, 2004, and made a part of these Minutes. He pointed out the location of the property on the aerial photograph and stated the petitioner is requesting an amendment of their Site Plan/Plan of Operation Permit to permit the construction of a 24 ft. x 53 ft. addition on the east side of the existing 24 ft. x 64 ft. storage building.

Please see Conditional Use No. CU-789B above for discussion.

Mrs. Kipp moved, seconded by Mr. Kolb and carried unanimously, for approval in accordance with the “Staff Report and Recommendation”. The approval of this request, as conditioned, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

- **SCU-1371 (Ronald Milazzo) Town of Oconomowoc, Section 35**

Mr. Mace presented the "Staff Report and Recommendation" dated June 17, 2004, and made a part of these Minutes. He pointed out the location of the property on the aerial photograph and stated the petitioner is requesting a Conditional Use Permit for earth-altering activities to be done in conjunction with the replacement of a patio on the roadside of the residence and the replacement of existing retaining walls and stairs.

Ms. Finet (Senior Planner) was present to answer questions from the Commission. Mr. Mace pointed out the existing 13 ft. x 16 ft. concrete patio, which is located on the road side of the residence. He indicated the proposed new patio (16 ft. x 17 ft.) conforms with the locational requirements of the Ordinance and would not alter the existing drainage pattern.

The Commission reviewed the Building Plans. Mrs. Haukohl asked if the residence met the setback standards for lakes and patios and erosion control, etc., and expressed concern with regards to the runoff draining into the lake? Mr. Mace replied the petitioner meets those standards. The Commission reviewed photographs of the property. Mr. Mace stated the last paragraph of the "Staff Recommendation" stated, "The approval of this request, with the recommended conditions, will ensure that proper erosion and sediment control measures are followed...." He indicated on the lake side of the residence, the petitioner is also proposing to install a brick paver patio and a crushed-granite patio and fire pit, but because the lot is level between the residence and lake, those patios do not require significant changes to the existing grade and are not part of this Conditional Use request. The Commission was concerned whether the patio was legal or not. Ms. Finet reiterated the patio was not part of the Conditional Use request and stated the petitioner received a Variance from the Waukesha County Board of Adjustment on April 28, 2004 (BA04:028).

After discussion, Mr. Baade moved, seconded by Mr. Kolb and carried unanimously, for approval in accordance with the "Staff Report and Recommendation". The approval of this request, as conditioned, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

- **CU-1368 (Kathleen Johns) Town of Genesee, Section 34**

Mr. Mace presented the "Staff Report and Recommendation" dated June 17, 2004, and made a part of these Minutes. He pointed out the location of the property on the aerial photograph and stated the petitioner is requesting a Conditional Use Permit for a horse boarding and training facility.

Mrs. Kipp wanted to make sure a Manure Plan would be submitted for a maximum of 28 horses. Mr. Mace noted that No. 5 of the Town's conditions states the Land Resources Division must approve a Manure Waste Disposal Plan prior to issuance of any permits. Mrs. Kipp was concerned about the increased traffic on S.T.H. 83 and Ms. Finet (Senior Planner) stated the driveway would come off of C.T.H. "X". Mr. Johns and his daughter Kattie introduced themselves. Mrs. Kipp questioned the square on the map marked "outdoor"? Mr. Johns replied the square was an outdoor arena. Mrs. Kipp questioned the double-dashed line on the map? Mr. Johns replied the dashed line was a 15 ft. wide double fence around the property, which provides safety protection. Mrs. Kipp asked if Mr. Johns, in the future, would sell the miscellaneous farm buildings? Mr. Johns replied his daughter Kattie would most likely buy all the buildings and indicated his neighbors were in favor of the Plan of Operation request because they would rather see horses instead of rooftops when looking out their windows. He stated he recently split the property with his brother who owns the property to the rear (west), which will continue to be farm land. He also pointed out that he owns 80 acres on Saylesville Road. Mrs. Haukohl asked if the petitioner was working on a Stormwater Plan? Mr. Johns replied he hired a Civil Engineer to work with the County on water retention and runoff.

After discussion, Mrs. Haukohl moved, seconded by Mr. Baade and carried unanimously, for approval in accordance with the “Staff Report and Recommendation”. The approval of this request, as conditioned, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

- **PO-04-GNT-07 (Kathleen Johns) Town of Genesee, Section 34**

Mr. Mace presented the “Staff Report and Recommendation” dated June 17, 2004, and made a part of these Minutes. He pointed out the location of the property on the aerial photograph and stated the petitioner is requesting a Site Plan/Plan of Operation Permit for a horse boarding and training facility.

Please see the Conditional Use No. CU-1368 above for discussion.

Mrs. Kipp moved, seconded by Mrs. Haukohl and carried unanimously, for approval in accordance with the “Staff Report and Recommendation”. The approval of this request, as conditioned, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

- **SCU-1372 (Wisconsin Department of Natural Resources) Town of Genesee, Section 2**

Mr. Mace presented the “Staff Report and Recommendation” dated June 17, 2004, and made a part of these Minutes. He pointed out the location of the property on the aerial photograph and stated the petitioner is requesting a Conditional Use Permit to remove the Genesee Roller Mill Dam and restore disturbed areas and the streambed.

Mr. Evans was present in the audience and expressed concerns about the construction sequence and asked if the petitioner was planning to fill in the old millrace? Ms. Finet replied, the petitioner would restore the stream channel, but was not proposing to fill in the millrace. There was discussion with regards to getting the fill material to the disposal area. Mrs. Kipp pointed out in Condition No. 6 of the Town’s conditions it states that all soil and dredge materials shall remain on site unless removal is approved by the Town of Genesee Plan Commission prior to said activity taking place. Mr. Mace stated Carroll College owns the adjacent land and there must not be much concern about the soil/dredge materials because they would have contacted the Planning and Zoning Division Staff. Mrs. Kipp asked with all of the rain recently, when the dam is removed, would the dirt be compacted or flow downstream? Mr. Mace replied this was a concern and should be taken into account, but he believed the dam would be taken down slowly so it doesn’t wash silt downstream, and then vegetation would be re-established using water-tolerant species. Mrs. Kipp asked if the State would continue to own the property? Ms. Finet replied, “Yes, there is a Quit Claim Deed by the previous owner who probably didn’t want the responsibility so the State took it over.” Mr. Mace indicated he received a letter from Mr. Kamps, which requested any final approval be deferred until the issue of title to the lands is resolved, as he believes the lands drained by this action would belong, in part, to him and his wife. Mr. Mace said pointed out he had conferred with the Waukesha County Corporation Counsel’s office who determined this was a civil matter between the Department of Natural Resources and Mr. Kamps, so it was appropriate to go ahead with a recommendation for approval.

After discussion, Mrs. Haukohl moved, seconded by Mr. Baade and carried unanimously, for approval in accordance with the “Staff Report and Recommendation”. The approval of this request, as conditioned, will allow the petitioner a reasonable use of their land and still promote and meet the intent and purposes of all County Ordinances.

• **PO-04-OCOT-16 (Phil's Pizza Palace, Inc.) Town of Oconomowoc, Section 36**

Mr. Mace presented the "Staff Report and Recommendation" dated June 17, 2004, and made a part of these Minutes. He pointed out the location of the property on the aerial photograph and stated the petitioner is requesting a Site Plan/Plan of Operation Permit for a change in operator, a name change, signage, changes to interior, menu changes and the addition of delivery services.

Ms. Theder (petitioner) and Mr. Schell were present in the audience. Mr. Baade asked if there was inside seating? Ms. Theder replied that there was room for two tables and space in the back, which is presently being utilized. She said once the business is doing well with the pick up and delivery, she would include a dining area.

After discussion, Mr. Kolb moved, seconded by Mr. Baade and carried unanimously, for approval in accordance with the "Staff Report and Recommendation". The approval of this request, as conditioned, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

• **PO-03-OCOT-6 (John Steiner-Jonny Hana's) Town of Oconomowoc, Sec. 35 and 36**

Mr. Mace presented the "Staff Memorandum" dated June 17, 2004, and made a part of these Minutes. He pointed out the location of the property on the aerial photograph and stated the petitioner is requesting a Site Plan/Plan of Operation Permit for a change in Condition No. 8 of the existing Plan of Operation approval, requesting less parking spaces:

Condition No. 8

A written easement indicating that Amnesia Reef and Johnny Hana's has the right to utilize 50 parking spaces in the parking area located on Tax Key No. OCOT 0572.966 (Okauchee School site) shall be recorded in the Waukesha County Register of Deeds office and a copy of the recorded easement shall be presented to Waukesha County Planning and Zoning Division Staff, prior to the issuance of any permits.

Mr. Steiner was present in the audience and had concerns with the following issues:

1. The parking lot which will be titled to the other property as an easement is 43 ft. from the center of the road. The Town's parking lot is 36 ft. from the center of the road and should be 43 ft.
2. The driveway which will be shared has been there for 50 years and he is upset because he has to make changes for zoning and the Town does not.
3. Will have to go back to the Board of Adjustment for two handicapped parking spaces.

There was discussion as to where the parking lots were located with regards to the center of the road. It was determined a survey would be an accurate way to make that determination. Mrs. Barrows said the Town didn't need approval for resurfacing an existing parking lot, which has been there for years. She said the Parking Plan of June 8, 2004, does not designate the 66 ft. road right-of-way, which is a problem and the plan shows a 10 ft. setback. The Commission and the petitioner measured the center of the road on the map presented. Mr. Mace said if the Town's parking lot is closer than 43 ft. to the centerline, he didn't think the Board of Adjustment would object to allow the same distance as the Town. He pointed out, the Commission doesn't have the authority to make that decision. Mrs. Barrows stated Mr. Steiner also has a trial date in court and that the project needs to keep moving ahead. She said the petitioner has known about these conditions for a long time and reiterated the

Commission is approving the changes of parking, but it will not work unless he gets approval for the other issues from the Board of Adjustment.

After discussion, Mr. Baade moved, seconded by Mrs. Haukohl and carried unanimously, for approval in accordance with the "Staff Memorandum". The approval of this request, as conditioned, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

- **(William Minett) Town of Oconomowoc, Section 25**

Mr. Mace presented the "Staff Memorandum" dated June 17, 2004, and made a part of these Minutes. He pointed out the location of the property on the aerial photograph and stated the petitioner is requesting permission to construct retaining walls within 5 ft. of the property line.

Ms. Faherty (representing Mr. Minett) was present in the audience. Mrs. Haukohl asked what was wrong with the existing walls? Mr. Baade replied they are failing, deteriorated and are starting to cave in. Ms. Faherty pointed out the petitioner is not tearing anything down, only restacking the stones which have fallen. Chairperson Willert asked if the petitioner would use the same material? Ms. Faherty replied, "Yes". The Commission reviewed photographs submitted by the petitioner.

After discussion, Mr. Baade moved, seconded by Mrs. Haukohl and carried unanimously, for approval in accordance with the "Staff Memorandum". The approval of this request, as conditioned, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

- **Town of Delafield Street Width Alterations**

Mace presented the "Staff Memorandum" dated June 17, 2004, and made a part of these Minutes. He stated the petitioner's request is to consider revising street widths for certain streets in the Town of Delafield pursuant to Section 3.08(1)(A)2.

Mr. Mace stated the Planning and Zoning Division Staff is recommending approval of the Town of Delafield's Resolution dated June 12, 1990, which will be utilized by the County in the administration of the Shoreland Ordinance. The Town had forgotten to forward their changes previously.

After discussion, Mr. Kolb moved, seconded by Mrs. Kipp and carried unanimously, for approval in accordance with the "Staff Memorandum".

ADJOURNMENT

There being no further business to come before the Commission, Mrs. Kipp moved, seconded by Mrs. Haukohl to adjourn at 3:00 p.m.

Respectfully submitted,

Mareth Kipp
Secretary

MK:smv